

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVID LYNN CARPENTER,

§

Petitioner,

§

VS.

§

NO. 3:02-CV-1145-B

RICK THALER, Director

§

Texas Department of Criminal Justice,
Correctional Institutions Division

§

(Death Penalty Case)

§

§

Respondent.

§

ORDER APPOINTING CO-COUNSEL NUNC PRO TUNC

On March 31, 2011, appointed counsel filed his *Motion for Appointment of Co-counsel*. (Doc. #102). The motion should be GRANTED nunc pro tunc with instructions for co-counsel to comply with the prior orders of this court regarding any work performed before the state court. (See Order, doc. #95).

Petitioner seeks the appointment of a second counsel to represent him in habeas-corpus proceedings in this court to review his conviction and death sentence. He has already been found to be indigent and eligible for appointment of counsel. (Doc. #4.) He states that **Mary Margaret Penrose** has been acting as co-counsel in these proceedings, but through oversight has never been appointed as co-counsel. (Motion at 1.)

The Court finds that Petitioner is entitled to the appointment of one or more attorneys by the provisions of 18 U.S.C. § 3599(a)(2). See *McFarland v. Scott*, 512 U.S. 849, 855-58 (1994). The Court further finds that attorney **Mary Margaret Penrose** possesses the background, knowledge, and experience to enable her to represent Petitioner as co-counsel to

assist lead counsel Bruce Anton, and is qualified and willing to accept this appointment as co-counsel. Accordingly, Petitioner's Motion for Appointment of Counsel (Doc. #1) should be **GRANTED** and **Mary Margaret Penrose** be appointed as co-counsel to assist lead counsel Bruce Anton in the representation of Petitioner in this cause, nunc pro tunc.

Appointed counsel are entitled to compensation (currently at the rate of \$178.00/hour) in accordance with Volume VII, Part A, Chapter 6, of the Guide to Judicial Policies and Procedures, which Counsel is directed to read along with the instructions for form CJA 30 in order to ensure proper compensation for time and expenses incurred herein. Counsel is directed to comply with the prior orders of this court, including the order directing counsel to observe all state laws regarding appointment and payment of counsel for work performed before the state courts. (See Order, doc. #95). Counsel shall be entitled to interim payments for services rendered in this cause.

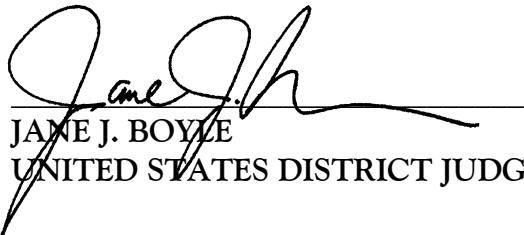
A copy of this Order along and CJA 30 forms shall be provided to appointed counsel at the following address:

CO-COUNSEL:

Mary Margaret Penrose
Texas Wesleyan School of Law
1515 Commerce Street
Fort Worth, TX 76102
Phone: (972) 310-8669
E-mail: mpenrose@law.txwes.edu

SO ORDERED.

DATED April 6, 2011.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE